

TESTIMONY OF LEVI JOHNSON

Chairman Meadows, members of the Committee, my name is Levi Johnson, and I am testifying today on behalf of the members of the National Football League Players Association. I am accompanied by Ahmad Nassar, who is an attorney and serves as the Association's Vice President of Business and Legal Affairs.

I am a former professional football player. I played in the National Football League from 1973 through 1977, all with the Detroit Lions. I was born in Corpus Christi, Texas, and currently live in Michigan. The Lions selected me as a cornerback with the 23rd pick in the 3rd round of the NFL Draft.

Like the other players you've heard from today, I am concerned about the negative impact House Bill 5964 will have if passed. I fully echo their testimony, but rather than repeat what you have already heard from them, I would like to draw your attention to the situation of video games, which are uniquely problematic. The video game industry is already huge, and it is growing. By 2011, the worldwide video gaming market will be worth \$48.9 billion at a compound annual growth rate of 9.1 percent. By

their very nature, games are highly interactive. Game developers can make characters do things in a game that are not only impossible in real life, but also highly offensive and morally repugnant.

House Bill 5964 fails to address the reality that video games are already very realistic, and will only continue to become increasingly realistic. Given the number of games that are operated over the Internet, a clip can be created and sent to millions of individuals in a manner of seconds. For many people, it will be increasingly difficult to distinguish between the real and fantasy, between what a player actually has done and what he has been made to do in a video game.

Put simply, this bill would allow video game companies to use a player's likeness for any purpose without his or her permission – or even his or her knowledge. Under the legislation, I could be sent on a killing spree in the next edition of the game *Grand Theft Auto*. So could Dave Bing; Kirk Gibson could suddenly find himself the star of the next version of *Resident Evil*. The notion that a game could include me without my permission – or knowledge – would drastically change the way the business and the law currently operate. Yet that is precisely what House Bill 5964 would do if passed.

Accordingly, my colleagues and I are very concerned about House Bill 5964. It is written in a way that actually eliminates the rights and protections we currently enjoy under Michigan state law. For that reason, we respectfully ask that you not pass the bill in its current form. An individual's right of publicity is more accurately described as the right to manage his or her image, reputation, and likeness. That right is fundamental in our society, and it is currently protected by Michigan law. It is my sincere hope that you do not weaken this protection by statute. Therefore, after listening to all of the testimony today, I hope you will agree with us that House Bill 5964 should not be passed as currently written.

Chairman Meadows, members of the Committee, thank you for the opportunity to testify today on behalf of myself and the other members of the National Football League Players Association. I am happy to answer any questions you may have.